

EXHIBIT A

1
2 IN THE UNITED STATES DISTRICT COURT
3 OF THE EASTERN DISTRICT OF PENNSYLVANIA

4 BEY DILEMANI,

5 52 Brinker Drive
6 Doylestown, PA 18901

7 Plaintiff,

8 -v-

CIVIL ACTION

FILE NO.

02-CV-2614

9 BUCA, INC.,

10 1300 Nicollet Mall
11 Minneapolis, MN 55403

12 Defendants.

13 -----x
14
15 Computer-aided transcript of
16 deposition testimony of BEY DILEMANI taken
17 stenographically in the above-entitled matter
18 before ELIZABETH M. KONDOR, a Certified Shorthand
19 Reporter and Notary Public of the State of New
20 Jersey, at the law offices of Morgan, Lewis &
21 Bockius, LLP, 1701 Market Street, Philadelphia,
22 PA 19102, on Wednesday, January 8, 2003,
23 commencing at 2:00 p.m.

24 DAVID FELDMAN & ASSOCIATES (USA)

25 575 Madison Avenue, 10th Floor

New York, New York 10022

(212) 921-0771

Fax: (212) 921-0718

6

1 BEY DILEMANI
 2 Q. G-E-R-H-A-N?
 3 A. G-E-R-H-A-N?
 4 Q. Yes.
 5 A. It's pronounced Gerhan?
 6 Q. Gerhan.
 7 A. Thank you.
 8 MR. GOLDBERG: Don't go calling him,
 9 now.
 10 Q. Mr. Dilemani, have you ever been a
 11 party to a lawsuit, other than this one?
 12 A. No.
 13 Q. Have you ever had anybody threaten
 14 legal claims against you?
 15 A. No.
 16 Q. Have you ever had your deposition
 17 taken before?
 18 A. No.
 19 Q. Have you ever testified in a trial
 20 or a court proceeding or a hearing of any kind?
 21 A. No.
 22 Q. You understand today that you're
 23 under oath?
 24 A. Yes.
 25 Q. And you understand the consequences

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1 BEY DILEMANI
 2 D-I-L-E-M-A-N-I.
 3 Q. Have you been known by any other
 4 names?
 5 A. No. I have actually a first name.
 6 My full first name is B-E-H-R-O-Z.
 7 Q. How do you pronounce that?
 8 A. Behroz, and Bey is short for that.
 9 Q. And you don't have a middle name or
 10 a middle initial?
 11 A. Yes, K.
 12 Q. So your full name as it would
 13 appear, for example, on a passport or license is
 14 B-E-H-R-O-Z, middle initial K, D-I-L-E-M-A-N-I?
 15 A. Correct.
 16 Q. And what is your date of birth?
 17 A. 12/12/1945.
 18 Q. And your Social Security number?
 19 A. 079-46-7101.
 20 Q. And what is your address,
 21 Mr. Dilemani?
 22 A. 52 Brinker Drive, B-R-I-N-K-E-R,
 23 Doylestown, PA 18901.
 24 Q. And your telephone number?
 25 A. 215-230-0971.

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1 BEY DILEMANI
 2 of not telling the truth?
 3 A. Yes.
 4 Q. Have you taken any medication in the
 5 last 24 hours?
 6 A. No.
 7 Q. Have you used any alcohol in the
 8 last 24 hours?
 9 A. No.
 10 Q. Have you taken any drugs in the last
 11 24 hours?
 12 A. No.
 13 Q. Is there any reason, any physical or
 14 mental condition that would impair your memory,
 15 that you're aware of?
 16 A. No.
 17 Q. Is there any physical or mental
 18 condition that would impair your ability to
 19 testify truthfully here today?
 20 A. No.
 21 Q. Are you in good health today?
 22 A. Yes.
 23 Q. Can you give us your full name for
 24 the record.
 25 A. Sure. Bey Dilemani, B-E-Y,

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1 BEY DILEMANI
 2 Q. Is the Doylestown address an
 3 apartment or a house?
 4 A. House.
 5 Q. And does anyone live with you at the
 6 house?
 7 A. My wife and two children.
 8 Q. How old are the children?
 9 A. Seventeen and thirteen.
 10 Q. How long have you been married?
 11 A. Over 19 years.
 12 Q. How long have you lived at that
 13 address?
 14 A. Since January.
 15 Q. January --
 16 A. Since January 2002.
 17 Q. So about a year?
 18 A. Yes.
 19 Q. And prior to January 2002, where did
 20 you live?
 21 A. I lived in Chalfont.
 22 Q. Can you spell that, please?
 23 A. Sure. C-H-A-L-F-O-N-T.
 24 Q. That's also in Pennsylvania?
 25 A. Correct. The address was 213 Forest

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1 BEY DILEMANI
 2 Park Drive. The zip is 18914.
 3 Q. Is the Forest Park Drive address
 4 within 10 miles of the Doylestown address?
 5 A. Yes.
 6 Q. How long did you live at the Forest
 7 Park Drive address?
 8 A. Forest Park Drive, I would say over
 9 one year, and I believe 14 months.
 10 Q. Was that also a house?
 11 A. Yes.
 12 Q. And did you rent or own that?
 13 A. Rent.
 14 Q. And the Doylestown house you own?
 15 A. Own.
 16 Q. So if you lived in the Forest Park
 17 Drive house for approximately 14 months, then you
 18 would have moved into it in sometime in August of
 19 2000?
 20 A. July of 2000.
 21 Q. July of 2000?
 22 A. Correct.
 23 Q. And did your wife and two children
 24 live with you at the Forest Park address the
 25 whole time that you were there?

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1 BEY DILEMANI
 2 Scott.
 3 MR. GOLDBERG: I don't have any
 4 objection if you have a document and you ask him
 5 if he's reviewed it in preparation for the
 6 deposition. I just have an objection to asking
 7 him globally which documents he reviewed, because
 8 they were at my direction.
 9 MR. GERHAN: Well, I mean, if you're
 10 going to instruct him not to answer, there's not
 11 really much I can do sitting here, but I find
 12 your objection to be meritless, and I guess we'll
 13 have to mark that on the record.
 14 Q. Other than any documents that your
 15 attorney might have shown you or selected for
 16 you, were there any documents that you, yourself,
 17 reviewed on your own in preparation for your
 18 deposition, Mr. Dilemani?
 19 A. No.
 20 Q. Did you talk to anyone other than
 21 your attorney about your deposition?
 22 A. No.
 23 Q. Have you been married to anyone
 24 other than your current wife, Mr. Dilemani?
 25 A. Yes.

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1 BEY DILEMANI
 2 A. Yes.
 3 Q. When you moved to Pennsylvania from
 4 Arizona, was the Forest Park address the first
 5 place that you lived?
 6 A. Yes.
 7 Q. Did you review any documents in
 8 preparation for your deposition today,
 9 Mr. Dilemani?
 10 A. I have reviewed some.
 11 Q. Can you tell me what documents you
 12 looked at?
 13 MR. GOLDBERG: Don't answer. I'm
 14 going to instruct him not to answer on the basis
 15 of attorney/client privilege and work product
 16 production, documents I've shown this witness.
 17 MR. GERHAN: In preparation for his
 18 deposition?
 19 MR. GOLDBERG: Yes. In preparation
 20 of this deposition, I made a determination of
 21 which documents to review with Mr. Dilemani,
 22 and what documents I chose to review with
 23 Mr. Dilemani is a privileged matter.
 24 MR. GERHAN: Well, I disagree.
 25 I mean, I know there's case law on that issue,

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1 BEY DILEMANI
 2 Q. And how long ago were you married to
 3 your other wife?
 4 A. We separated in 1975.
 5 Q. And is that your only other
 6 marriage?
 7 A. Yes.
 8 Q. Were there any legal proceedings
 9 associated with that divorce?
 10 A. No.
 11 Q. Other than just doing the divorce
 12 decree?
 13 A. That's it.
 14 Q. No trial or anything like that?
 15 A. No.
 16 Q. How long were you married the first
 17 time?
 18 A. Five years.
 19 Q. I want to talk a little bit about
 20 your educational background, Mr. Dilemani.
 21 Can you tell me when you graduated
 22 from high school?
 23 A. '60 -- I have to think about that a
 24 little bit, '66.
 25 Q. What was the name of the high

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1 BEY DILEMANI
 2 Of course, I gave him three months
 3 notice.
 4 Q. Does the Kimberly Hotel still exist?
 5 A. Yes.
 6 Q. And is it in Manhattan?
 7 A. Yes.
 8 Q. What's the location of the
 9 restaurant that you opened?
 10 A. The location of the restaurant was
 11 in Larchmont, New York.
 12 Q. Is Larchmont outside of the city?
 13 A. Twenty miles west of New York City.
 14 It's Westchester.
 15 Q. How many employees did you have at
 16 Cocconato?
 17 A. God, somewhere over 20 or 25, in
 18 that area. It could be 25, 30, some part time,
 19 some full time.
 20 Q. How would you describe Cocconato as
 21 a restaurant?
 22 A. It was a Northern Italian
 23 restaurant, and it was very successful.
 24 Q. Would you call it fine dining?
 25 A. Fine dining, yes. And I received a

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1 BEY DILEMANI
 2 the name.
 3 Q. When you sold the restaurant to the
 4 two partners, did you make a profit on the sale?
 5 A. Yes.
 6 Q. Approximately what was the profit?
 7 A. Anywhere between 50 to \$75,000.
 8 Q. Why did you decide to sell?
 9 A. I had a different idea in mind.
 10 Q. What do you mean by a different
 11 idea?
 12 A. To do something different in the
 13 industry.
 14 Q. In other words, you were thinking of
 15 getting out of the restaurant business?
 16 A. No. Prior to that, I took a trip to
 17 Arizona and I realized there's a lot of room in
 18 Arizona to do something there, so that's why I
 19 got prepared to move to Arizona.
 20 Q. In other words, Arizona impressed
 21 you as a place that had a lot of potential for
 22 development in terms of restaurants?
 23 A. Yes, yes.
 24 Q. When did you make that trip to
 25 Arizona?

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1 BEY DILEMANI
 2 Five Star Diamond award.
 3 Q. How long did you operate the
 4 Cocconato?
 5 A. Three years.
 6 Q. From 1994 until --
 7 A. '95 to '98.
 8 Q. And what happened in 1998?
 9 A. I sold it.
 10 Q. To whom did you sell it?
 11 A. To two different individuals or
 12 partners.
 13 Q. Do you know if the restaurant is
 14 still open?
 15 A. They sold it, too. To the best of
 16 my knowledge, they sold it maybe over a year ago.
 17 Q. Do you know if the restaurant is
 18 still open?
 19 A. Yes. It's under a different name.
 20 Q. Does it serve the same type of food?
 21 A. I don't know.
 22 Q. Was it the people that you sold it
 23 to who changed the name?
 24 A. No. The people I sold it to, they
 25 sold it to somebody else, the third party changed

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1 BEY DILEMANI
 2 A. I'm not positive, but the end of
 3 '98, beginning of '99, in that area.
 4 Q. Was the trip after you had sold
 5 Cocconato?
 6 A. Yes.
 7 Q. Does your wife work, Mr. Dilemani?
 8 A. At the present time?
 9 Q. Yes.
 10 A. Yes.
 11 Q. Did she work then in 1998?
 12 A. No.
 13 Q. So you sold Cocconato Restaurant?
 14 A. Yes.
 15 Q. Then you took a trip to Arizona,
 16 decided that it was a place that had a lot of
 17 potential for restaurant development?
 18 A. I took three trips.
 19 Q. Three trips?
 20 A. Correct.
 21 Q. And at some point in there, on one
 22 of those trips or after those trips, is that when
 23 you applied for a job with Spaghetti Western?
 24 A. I'm sorry, I didn't understand the
 25 question.

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1 BEY DILEMANI
 2 Q. I know at some point you were
 3 working for Spaghetti Western in Arizona?
 4 A. I opened that place.
 5 Q. And I take it that when you applied
 6 for work with Spaghetti Western, that that was in
 7 conjunction with one of your trips out to
 8 Arizona; is that right?
 9 A. No. Actually, this is a little
 10 confusing now, the way you're asking about
 11 Spaghetti Western and the trips. To me, it's
 12 very confusing.
 13 Q. You've sold the restaurant, you've
 14 made some trips; when did you decide to move to
 15 Arizona?
 16 A. In '99.
 17 Q. Is that, in fact, when you moved to
 18 Arizona?
 19 A. Yes.
 20 Q. And at the time that you moved, had
 21 you already applied for work with Spaghetti
 22 Western?
 23 A. No. I opened the Spaghetti Western.
 24 Q. So that was -- were you the owner of
 25 the restaurant?

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1 BEY DILEMANI
 2 partners equal?
 3 A. Yes.
 4 Q. And how much was the contribution?
 5 A. A little bit over \$100,000 each.
 6 Q. So each of the partners invested
 7 somewhat just over \$100,000?
 8 A. Yes.
 9 Q. How many customers could the
 10 Spaghetti Western Restaurant seat?
 11 A. Close to 300, 295. To be exact,
 12 I would say between 295, 300, something like
 13 that.
 14 Q. The other two investors or the other
 15 two partners, did either of them work at the
 16 restaurant?
 17 A. No.
 18 Q. Did you work at the restaurant?
 19 A. Yes.
 20 Q. So you were the only partner who
 21 actually was involved in the day-to-day
 22 operations?
 23 A. Yes.
 24 If it's possible, I'd like to take a
 25 little break.

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1 BEY DILEMANI
 2 A. Yes.
 3 Q. Did you have any partners?
 4 A. Yes.
 5 Q. How many partners?
 6 A. There were two.
 7 Q. In addition to yourself?
 8 A. Correct. Three altogether.
 9 Q. Did you have a one-third share in
 10 the restaurant --
 11 A. Yes.
 12 Q. Don't forget to let me finish my
 13 question.
 14 So each of you had a one-third share
 15 in the restaurant?
 16 A. Yes.
 17 Q. When did the Spaghetti Western
 18 Restaurant open?
 19 A. To the best of my knowledge,
 20 sometime in September of '99.
 21 Q. And did each of the three partners
 22 make a contribution to the partnership to fund
 23 the opening?
 24 A. Yes.
 25 Q. Was the contribution of each of the

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1 BEY DILEMANI
 2 (Recess.)
 3 Q. Mr. Dilemani, let me just jump back
 4 for a second to the Cocconato operation. That
 5 was a single location restaurant, correct?
 6 A. Yes.
 7 Q. And you were the sole owner of it?
 8 A. Yes.
 9 Q. And were you also effectively the
 10 general manager of the restaurant?
 11 A. Yes.
 12 Q. Did you have any other managers
 13 reporting to you?
 14 A. Yes.
 15 Q. How many?
 16 A. Three.
 17 Q. And approximately how many customers
 18 could the restaurant seat?
 19 A. 160.
 20 Q. Can you give me sort of an average
 21 weekly dollar sales figure for it?
 22 A. Sure, 37.
 23 Q. \$37,000?
 24 A. Yes.
 25 Q. That's per week?

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1 BEY DILEMANI
 2 with Mr. Kahn or Mr. Kahn in touch with you; is
 3 that right?
 4 A. Yes, yes.
 5 Q. Did you interview Mr. Kahn?
 6 A. Yes.
 7 Q. Did you interview any more potential
 8 partners?
 9 A. No.
 10 Q. Did the other two partners interview
 11 Mr. Kahn?
 12 A. Yes.
 13 Q. At the time that you interviewed
 14 Mr. Kahn, was he already operating a restaurant?
 15 A. Yes.
 16 Q. And what restaurant was he
 17 operating?
 18 A. If I'm not mistaken, the name of the
 19 place he was operating was called Bamboo Grill.
 20 Q. Bamboo Grill?
 21 A. Correct.
 22 Q. Do you know if Mr. Kahn had an
 23 ownership interest in Bamboo Grill?
 24 A. Yes, he had.
 25 Q. Did he keep that even after he

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1 BEY DILEMANI
 2 looking for restaurant managers?
 3 A. I saw an advertisement in Nation's
 4 restaurant News.
 5 Q. At the time that you first spoke to
 6 someone from Buca about working there, did you
 7 have a particular place in mind that you would
 8 like to work as a manager?
 9 A. No.
 10 Q. Why did you decide to answer the ad
 11 that you saw in Nation's Restaurant News?
 12 A. The first time I went to one of the
 13 restaurants in Phoenix and I found it a very
 14 interesting place, a very fun place, and that was
 15 the reason.
 16 Q. Had you gone to the restaurant
 17 before you saw the ad?
 18 A. Yes.
 19 Q. So you were familiar with the
 20 restaurant because you had gone there and liked
 21 it, and then you saw the ad and decided to see if
 22 they had any need for you, fair enough?
 23 A. Yes.
 24 Q. And at the time that you first spoke
 25 to them, you didn't have any idea in mind whether

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1 BEY DILEMANI
 2 bought into your partnership?
 3 A. Yes.
 4 Q. How would you characterize the menu
 5 at Spaghetti Western?
 6 A. At what time?
 7 Q. When you were operating it.
 8 A. The menu consisted of a choice of
 9 pasta, nine-inch pizza and half a pound burger,
 10 eight-ounce breast of chicken with all different
 11 types of toppings.
 12 Q. Was it a restaurant where you had
 13 waiters?
 14 A. Yes.
 15 Q. So it was not a counter-type
 16 restaurant, not a self-service restaurant, but a
 17 wait/serve restaurant?
 18 A. No.
 19 Q. Let me back up because I'm sure
 20 I have the court reporter totally confused.
 21 At Spaghetti Western, when you were
 22 the general manager there, the method of serving
 23 the customers was with a wait staff, correct?
 24 A. Correct.
 25 Q. How did you learn that Buca might be

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1 BEY DILEMANI
 2 you were going to work in Phoenix or Pennsylvania
 3 or anywhere else in the country?
 4 A. No.
 5 MR. GERHAN: Let's mark this as
 6 Exhibit 1.
 7 (Whereupon, Defendant's Exhibit No.
 8 1 was received and marked for Identification and
 9 is appended to the transcript.)
 10 Q. Mr. Dilemani, showing you a document
 11 that's been marked as Defendant's Deposition
 12 Exhibit 1. This is a copy of part of a page of a
 13 Nation's Restaurant News edition of May 22, 2000.
 14 There's an ad in the top right
 15 corner for Buca Restaurant; do you see that?
 16 A. Yes.
 17 Q. Is this the ad that you answered?
 18 A. Yes.
 19 Q. Do you remember how you answered it?
 20 It says, "please send or fax your resume to;"
 21 is that what you did?
 22 A. Yes.
 23 Q. So you faxed your resume to that fax
 24 number that's listed in the ad?
 25 A. I don't remember the fax number, but

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1 BEY DILEMANI
 2 I faxed it.
 3 MR. GERHAN: Let's mark this one as
 4 2.
 5 (Whereupon, Defendant's Exhibit No.
 6 2 was received and marked for Identification and
 7 is appended to the transcript.)
 8 Q. Mr. Dilemani, the court reporter has
 9 given you a document marked as Defendant's
 10 Deposition Exhibit 2. Is this the copy of the
 11 resume that you sent to Buca?
 12 A. Yes.
 13 Q. And the address that's listed there
 14 is the address at which you were living in
 15 Scottsdale, Arizona?
 16 A. Yes.
 17 Q. I think we have established in an
 18 earlier deposition in this case that the
 19 handwriting on there is handwriting by Lori Van
 20 Holmes, not you.
 21 Is that 6/1/2000 interview, does
 22 that jive with when you recall being interviewed
 23 by Ms. Van Holmes?
 24 A. I know it was June, but I'm not
 25 positive whether that was the day.

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1 BEY DILEMANI
 2 corporation.
 3 Q. So your corporate name was Hudson
 4 Restaurant Corporation?
 5 A. Correct.
 6 Q. And the restaurant that Hudson
 7 Restaurant Corporation operated was Cocconato?
 8 A. Correct.
 9 Q. And were you and your wife were the
 10 sole shareholders of Hudson Restaurant
 11 Corporation, correct?
 12 A. Yes.
 13 Q. Underneath of Hudson Restaurant
 14 Corporation, it says "general management of
 15 multi-unit fine dining restaurants in the
 16 New York tri-state area."
 17 A. Correct.
 18 Q. Is that a correct description of
 19 what Hudson Restaurant Corporation was doing?
 20 A. Under Hudson Restaurant Corporation,
 21 I was consulting other restaurants, managing
 22 other restaurants. Cocconato, I owned. I looked
 23 after a couple of other restaurants which
 24 somebody else owned.
 25 Q. I thought, as I understood your

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1 BEY DILEMANI
 2 Q. Do you remember whether you spoke to
 3 her in the morning or the afternoon?
 4 A. It probably was late morning,
 5 possibly, very early afternoon.
 6 Q. When you spoke to her, it was by
 7 telephone, correct?
 8 A. Correct.
 9 Q. At the top of Defendant's Deposition
 10 Exhibit 2, the entry at the top underneath of
 11 your name and address, it lists you as Managing
 12 Director AZ Spaghetti Western Co.?
 13 A. Correct.
 14 Q. Underneath of that, the next entry
 15 Hudson Restaurant Corporation; do you see that
 16 entry?
 17 A. Yes.
 18 Q. If I understood your previous
 19 testimony, I thought you told me that in that '94
 20 to '95 time frame was when you were the owner of
 21 Cocconato Restaurant?
 22 A. Correct.
 23 Q. Is Cocconato Restaurant different
 24 from Hudson Restaurant Corporation?
 25 A. That was the name of the

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1 BEY DILEMANI
 2 previous testimony, you told me that, in addition
 3 to owning Cocconato, you were also the general
 4 manager of Cocconato; is that right?
 5 A. Correct.
 6 Q. And so your testimony is that, in
 7 addition to being general manager of that
 8 restaurant, there were other restaurants that you
 9 consulted on?
 10 A. Yes.
 11 Q. How many other restaurants?
 12 A. At the time, we're talking about
 13 right now, based on this resume, it was one more.
 14 Q. What was the name of the other
 15 restaurant that you consulted?
 16 A. Paradise Barcelona.
 17 Q. How do you spell that?
 18 A. Paradise Barcelona, the name of the
 19 city in Spain.
 20 Q. So the restaurant was located in
 21 Spain?
 22 A. No, in New York.
 23 Q. Who was the owner of it?
 24 A. The owner was Armando Behjar,
 25 B-E-H-J-A-R.

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1 BEY DILEMANI
2 A. Yes.
3 Q. And what I'm trying to make sure of
4 is that that 10 to 12 months scattered around all
5 occurred during the 36 months that you were
6 owning and operating Cocconato?
7 A. No.
8 Q. What other time periods did that
9 10 to 12 months cover?
10 A. To the best of my knowledge, it
11 covered between '94 and '96.
12 Q. Going back to the process of seeking
13 work with Buca, we had gotten to the point where
14 you've sent a resume in, and you had a telephone
15 conversation with Lori Van Holmes, correct?
16 A. Correct.
17 Q. Do you remember how long your
18 telephone conversation with Ms. Van Holmes
19 lasted?
20 MR. GOLDBERG: Objection. Vague.
21 The question does not specify which conversation
22 you're talking about.
23 Q. You may answer the question.
24 A. Well, exactly, because I don't
25 remember which conversations I had. I had a few

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1 BEY DILEMANI
2 that's the case, she's going to pass it on to
3 Ms. Van Holmes and she is going to give me the
4 phone interview.
5 Q. And what did you say?
6 A. I said that's fine.
7 Q. How long after that conversation
8 that you just testified about with Lucy Lea did
9 Ms. Van Holmes first call you?
10 A. To the best of my knowledge, between
11 five to seven days.
12 Q. And in that first occasion that
13 Ms. Van Holmes called you, how long did the
14 telephone conversation last?
15 A. To the best of my knowledge, again,
16 maybe ten minutes.
17 Q. What do you recall Ms. Van Holmes
18 saying in that ten-minute conversation and what
19 did you say?
20 A. I just want to make this clear,
21 I received a few phone calls from Ms. Van Holmes,
22 I just don't want to mix them up.
23 Q. I understand.
24 A. In that conversation from
25 Ms. Van Holmes, she said that, yes, she got my

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1 BEY DILEMANI
2 conversations with her. I don't know which one.
3 Q. You told me, I want to focus on the
4 first conversation that you had with her after
5 you sent your resume in, which you thought
6 occurred around June 1st, but you're not sure of
7 the exact date; is that right?
8 A. Yes.
9 Q. And I want to know how long that
10 first conversation with her lasted.
11 A. Well, actually, I received a first
12 phone call from somebody else than
13 Ms. Van Holmes.
14 Q. Do you remember who you received it
15 from?
16 A. Yes Lea, I believe it's spelled
17 L-E-A.
18 Q. Lucy Lea?
19 A. Correct.
20 Q. And in that conversation, what did
21 Ms. Lea tell you and what did you tell her, to
22 the best of your recollection?
23 A. To the best of my recollection, she
24 mentioned that she has received my resume, and if
25 I'm still interested to work for Buca, and if

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1 BEY DILEMANI
2 resume, it looks very interesting. And she asked
3 me some questions regarding the job. How do you
4 operate the restaurant and on and on. And they
5 were all very brief.
6 And I don't remember if it was that
7 phone call, the first phone call, or the second
8 phone call, she mentioned, after asking me what
9 my technique is, how I manage a restaurant, how
10 do I treat people, what do I do with customers
11 complaining, that type of questions, and at that
12 point, she said that she has some openings, there
13 are other places opening up.
14 And if I'm not mistaken, probably,
15 it was the first phone call or second phone call,
16 I'm not positive, she said that they're opening
17 one in Pennsylvania and one in Ohio; and are you
18 interested in any one of those positions?
19 And I said to her, Yes, I would be
20 interested in Pennsylvania.
21 Q. Mr. Dilemani, you were present
22 by telephone when your attorney took
23 Ms. Van Holmes's deposition, correct?
24 A. Yes.
25 Q. Do you remember her testimony when

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1 BEY DILEMANI

2 she testified about a telephone conversation with
3 you in which she asked you a series of questions
4 about how would you handle this situation or that
5 situation in a restaurant; do you recall that
6 testimony?

7 A. Yes.

8 Q. Do you recall whether those
9 questions and the answers you gave her occurred
10 in the first conversation that you had with
11 Ms. Van Holmes or was it a later conversation?

12 MR. GOLDBERG: Objection.

13 Are you waiting for grounds?

14 Objection to the characterization of Van Holmes'
15 testimony. This witness has not testified in
16 that regard.

17 Q. You may answer the question.

18 A. I'm not sure if it was the first

19 conversation or second phone call.

20 Q. Sitting here today, can you recall
21 how many days or how much time elapsed between
22 the first phone call you had with Ms. Van Holmes
23 and the second phone call?

24 A. A few days.

25 Q. At some point, Mr. Dilemani, in a

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1 BEY DILEMANI

2 Q. Was the meeting, from your
3 perspective, in the nature of an interview?

4 A. Absolutely.

5 Q. So he was asking you questions that
6 you felt gave you a chance to tell him about your
7 qualifications to run the restaurant; that sort
8 of thing?

9 A. In some way.

10 Q. Did Mr. Perelli show you around the
11 restaurant?

12 A. No.

13 Q. When you met with Mr. Perelli, was
14 it while the restaurant was open for business?

15 A. No.

16 Q. So it was during pre-business hours?

17 A. Well, they don't serve lunch. It
18 was lunchtime.

19 Q. Did you meet with Mr. Perelli more
20 than one time?

21 A. Yes.

22 Q. The first time that you met with
23 Mr. Perelli, did you meet anyone at the
24 restaurant, other than him?

25 A. No.

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1 BEY DILEMANI

2 phone call with Ms. Van Holmes, did she ask you
3 to go to the Phoenix Buca location to meet with
4 the general manager at that restaurant?

5 A. Yes.

6 Q. Do you remember whether that request
7 occurred in the first conversation with
8 Ms. Van Holmes or the second conversation?

9 A. I'm not sure.

10 Q. And did you, in fact, go and meet
11 with the general manager at the Phoenix Buca
12 restaurant?

13 A. Yes.

14 Q. And that meeting was in person?

15 A. Yes.

16 Q. Did you have more than one meeting
17 with him?

18 A. Yes.

19 Q. Do you remember his name?

20 A. Rich Perelli.

21 Q. Tell me what you remember about the
22 first meeting that you had with Mr. Perelli.

23 A. He was very a hospitable and
24 well-mannered individual, and it was very
25 pleasant meeting him.

69

1 BEY DILEMANI

2 Q. And how long did you spend with
3 Mr. Perelli the first time that you met him?

4 A. To the best of my knowledge,
5 anywhere from 30 to 40 minutes.

6 Q. Did you, at the time that you went
7 to the restaurant to meet with Mr. Perelli the
8 first time, do anything there, other than talk to
9 Mr. Perelli?

10 A. Yes.

11 Q. What else did you do?

12 A. He gave me some paper to take a
13 test.

14 Q. Did you take all the test at the
15 restaurant or was some of it a take-home test?

16 A. The first time I took the test in
17 the restaurant. The second time I went there, he
18 gave me stuff to take home.

19 Q. And by "the second time," you're
20 referring to the second time that you went to the
21 restaurant to meet with Mr. Perelli?

22 A. Yes.

23 Q. How much time elapsed between your
24 first visit with Mr. Perelli and your second?

25 A. Approximately, to the best I can

70

1 BEY DILEMANI
 2 remember, one week.
 3 Q. Do you remember when or in what
 4 month you visited the Phoenix restaurant to speak
 5 with Mr. Perelli?
 6 A. I believe it was the month of June.
 7 Q. Both visits?
 8 A. Yes.
 9 Q. Do you, sitting here today, know
 10 what the dates of the visits were?
 11 A. No.
 12 Q. Do you know whether they were in the
 13 beginning of the month, middle of the month, end
 14 of the month?
 15 A. I don't remember that.
 16 Q. Do you maintain any sort of a
 17 personal calendar, Mr. Dilemani?
 18 A. No, I don't.
 19 Q. Do you have any records that might
 20 show when you had your meetings with Mr. Perelli?
 21 A. No.
 22 Q. I take it by the time that you had
 23 had your meetings with Mr. Perelli, you had
 24 already given notice to your two partners that
 25 you were leaving?

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1 BEY DILEMANI
 2 while you were at the restaurant visiting
 3 Mr. Perelli and another test at home; is that
 4 right?
 5 A. Yes.
 6 Q. What did you do with the test that
 7 you completed at the restaurant?
 8 A. I left it with Mr. Perelli.
 9 Q. And what did you do with the test
 10 that you finished at home?
 11 A. That was mailed to Ms. Van Holmes.
 12 Q. In the conversation that you had
 13 with Ms. Van Holmes where she talked about your
 14 qualifications and experience and so forth, did
 15 you tell her that you were the owner of Spaghetti
 16 Western?
 17 A. No.
 18 Q. Did you tell Mr. Perelli that?
 19 A. No.
 20 Q. Did you ever tell anyone whom you
 21 interviewed with at Buca that you were the part
 22 owner of Spaghetti Western?
 23 A. No.
 24 Q. Why did you decide not to tell them
 25 that?

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1 BEY DILEMANI
 2 A. Yes.
 3 Q. On your resume you have your address
 4 listed as 10763 E. Palm Ridge Drive, Scottsdale?
 5 A. Yes.
 6 Q. Is that a house?
 7 A. Yes.
 8 Q. Had you already listed your house
 9 for sale --
 10 A. Yes.
 11 Q. -- at the time that you met with
 12 Mr. Perelli?
 13 A. Yes.
 14 Q. How about the first time that you
 15 spoke to Ms. Van Holmes, had you listed your
 16 house for sale?
 17 A. No.
 18 Q. So it was between your first
 19 conversation with Ms. Van Holmes and when you
 20 first met with Mr. Perelli --
 21 A. Somewhere in that area, yes.
 22 Q. -- that you decided to sell your
 23 house; is that right?
 24 A. Yes.
 25 Q. You said that you completed one test

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1 BEY DILEMANI
 2 MR. GOLDBERG: Objection. Assumes a
 3 fact not in evidence.
 4 Q. You may answer it.
 5 A. I didn't really think it was
 6 important to say it.
 7 Q. In between the first time and the
 8 second time that you met with Mr. Perelli, did
 9 you have any conversations with Lori Van Holmes?
 10 A. Yes.
 11 Q. Do you remember how many?
 12 A. No.
 13 Q. Do you remember what was said in
 14 the one or more conversations that you had with
 15 Ms. Van Holmes?
 16 A. In the first time and second time
 17 meeting with Mr. Perelli, Ms. Van Holmes
 18 mentioned that you have to go back to pick up
 19 more tests, so either Mr. Perelli forgot to give
 20 it to me or she forgot to mention it to him,
 21 I don't know.
 22 Q. So to sum up, basically, the reason
 23 that you had a second meeting with Mr. Perelli
 24 was because Ms. Van Holmes called after the first
 25 meeting?

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1 BEY DILEMANI
 2 MR. GOLDBERG: Objection.
 3 Speculation.
 4 A. Yes.
 5 Q. Is your answer yes?
 6 MR. GOLDBERG: Same objection.
 7 Q. You may answer the question.
 8 A. Yes.
 9 Q. After you went back to the Phoenix
 10 restaurant, picked up the tests, took them home,
 11 completed them, sent them off to Ms. Van Holmes,
 12 when was the next time that you spoke with
 13 somebody from Buca?
 14 MR. GOLDBERG: Objection. That's a
 15 mischaracterization of his testimony, and,
 16 therefore, the question is misleading.
 17 MR. GERHAN: Why do you think it's
 18 mischaracterizing his testimony?
 19 MR. GOLDBERG: Because he only took
 20 one test home. Your question was phrased in a
 21 way that both tests were taken back to someone at
 22 Buca.
 23 MR. GERHAN: We can argue about how
 24 the question was phrased, but I'll reask the
 25 question because I don't want it to be unclear.

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1 BEY DILEMANI
 2 And the next step was to meet JT,
 3 the senior vice president, area vice president.
 4 And I said, Fine.
 5 And, actually, if I can go back,
 6 the second time I went to Mr. Perelli, he
 7 mentioned JT is here, and he explained to me who
 8 he is and what is his position, and, of course,
 9 he has to see you, on and on, Do you have time to
 10 see him?
 11 I said, Absolutely.
 12 He came back, he said, He's tied up
 13 right now, he's not at work.
 14 I said, If you want me to wait, I'll
 15 wait. Obviously, it was busy and I understood
 16 that.
 17 In that conversation, going back to
 18 Ms. Van Holmes, she said she's going to make the
 19 arrangement for me to get to see JT, and then
 20 she's going to let me know when it's going to
 21 take place.
 22 Q. Okay. At some point, did you have
 23 another conversation with Ms. Van Holmes where
 24 she gave you the information about when you would
 25 see JT?

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1 BEY DILEMANI
 2 A. Sure.
 3 Q. You went to the restaurant a second
 4 time to pick up a test, took it home, completed
 5 it and mailed it off to Ms. Van Holmes, correct?
 6 A. Correct -- excuse me. I'm not sure
 7 if it was mailed to Ms. Van Holmes or to Lucy
 8 Lea.
 9 Q. To whoever it was mailed?
 10 A. Yes.
 11 Q. After you did that, when was the
 12 next time you had a conversation with anyone at
 13 Buca?
 14 A. A few days later.
 15 Q. And who was the person from Buca
 16 that you spoke to that next time?
 17 A. The only one I was talking to at the
 18 time in Buca was Lori Van Holmes.
 19 Q. And what do you remember of that
 20 next conversation with Ms. Van Holmes; what did
 21 she say, what did you say?
 22 A. In one of those conversations,
 23 Ms. Van Holmes mentioned, Are you positive you
 24 want to go to Allentown?
 25 And I said, Yes.

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1 BEY DILEMANI
 2 A. Yes.
 3 Q. And do you recall when that
 4 conversation was?
 5 A. To the best of my knowledge, it was
 6 in the end of June, sometime in the end of June.
 7 Q. And what did she tell you about
 8 seeing JT?
 9 A. She mentioned that, Can you see him
 10 at the Phoenix restaurant on July 5th?
 11 I said, Yes.
 12 Q. Was there anything else that you
 13 said or she said in that conversation, that you
 14 recall?
 15 A. No, that was pretty much it. The
 16 appointment was set for July 5th.
 17 Q. So on July 5th, did you go to the
 18 Phoenix restaurant?
 19 A. She also mentioned that she's going
 20 to call me to confirm the time. I did not hear
 21 from her, and I called her.
 22 Q. Do you remember what day you called
 23 her?
 24 A. To the best of my knowledge, I would
 25 probably say it was July 3rd, and I said, The

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1 BEY DILEMANI
 2 reason I'm calling is, what time should I go
 3 there on July 5th?
 4 She said, By the way, JT went on
 5 vacation. And that was it.
 6 Q. Was that conversation, the
 7 conversation where she told you that JT went on
 8 vacation, a conversation where she talked about
 9 your need to complete an employment application
 10 or was that a different conversation?
 11 A. No, it wasn't during that
 12 conversation. It was later.
 13 Q. When did you talk to Ms. Van Holmes
 14 about -- when did you have a conversation with
 15 Ms. Van Holmes that concerned your need to fill
 16 out an employment application?
 17 A. At one of the phone calls I received
 18 from Ms. Van Holmes, which was toward the end,
 19 and she was aware of it, my house was put up on
 20 the market for sale and I'm packing my bags for
 21 Pennsylvania, she was aware of it totally, and
 22 during one of those conversations I had with her,
 23 she mentioned that, it seems like you never fill
 24 out an application, and I said I never got it.
 25 So she mentioned that she's going to

80

1 BEY DILEMANI
 2 A. Right.
 3 Q. And you faxed this application back
 4 to somebody at Buca; is that right?
 5 A. No. I believe this was Federal
 6 Expressed the next day.
 7 Q. Did you receive it Federal Express
 8 or did you send it Federal Express?
 9 A. I received it Federal Express and it
 10 was sent Federal Express, to the best of my
 11 knowledge. If it was faxed also, I don't
 12 remember.
 13 MR. GERHAN: Let's mark this as 4.
 14 (Whereupon, Defendant's Exhibit No.
 15 4 was received and marked for Identification and
 16 is appended to the transcript.)
 17 Q. Mr. Dilemani, showing you
 18 Defendant's Deposition Exhibit 4, this is a
 19 Disclosure and Release Statement that you filled
 20 out; is that correct?
 21 A. Yes.
 22 Q. And did you fill this out at the
 23 same time or at least on the same date that you
 24 were filling out the Application for Employment?
 25 A. Yes.

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1 BEY DILEMANI
 2 Federal Express the application, and as soon as I
 3 get it, to fill it out and Federal Express it
 4 back, which came in a return Federal Express
 5 envelope. And I did that.
 6 MR. GERHAN: I'm going to note an
 7 objection to that part of the answer that relates
 8 to Mr. Dilemani's testimony about what
 9 Ms. Van Holmes may or may not have been aware of
 10 as not responsive to my question.
 11 Let's mark this as 3.
 12 (Whereupon, Defendant's Exhibit No.
 13 3 was received and marked for Identification and
 14 is appended to the transcript.)
 15 (Recess.)
 16 Q. I'm showing you the document that's
 17 been marked as Defendant's Deposition Exhibit 3,
 18 Mr. Dilemani. This is a copy of the application
 19 for employment that you completed; is that right?
 20 A. Yes.
 21 Q. And that's your signature at the
 22 bottom of the second page?
 23 A. Yes.
 24 Q. And it appears that you completed
 25 the application on July 12th of 2000?

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1 BEY DILEMANI
 2 Q. And you sent this off either by fax
 3 or Federal Express?
 4 A. Yes.
 5 Q. At the same time that you sent the
 6 application?
 7 A. Yes.
 8 Q. And both Deposition Exhibit 3 and 4
 9 you sent to Lucy Lea; is that right?
 10 A. Correct.
 11 Q. After completing Deposition Exhibits
 12 3 and 4 on July 12, when was the next time that
 13 you spoke to somebody from Buca?
 14 A. I'm sorry, could you repeat that
 15 question again, please?
 16 Q. After you completed Deposition
 17 Exhibits 3 and 4 on July 12th, when was the next
 18 time that you spoke to somebody from Buca?
 19 A. I would say a few days later, with
 20 Ms. Van Holmes.
 21 Q. And what can you recall of that next
 22 conversation with Ms. Van Holmes, the one that
 23 occurred shortly after you completed Deposition
 24 Exhibits 3 and 4?
 25 A. She mentioned that she's going to

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1 BEY DILEMANI
 2 make the arrangement for me to have a telephone
 3 call with Mr. Cowler. I believe it's spelled
 4 C-O-W-L-E-R.
 5 Q. And did she say when she was going
 6 to set that telephone call up for you?
 7 A. Actually, to the best of my
 8 knowledge, she also gave me his number.
 9 Q. Did she ask you to call him or were
 10 you supposed to wait for him to call you?
 11 A. I don't remember, really, her saying
 12 it either way.
 13 Q. What did you do after the telephone
 14 call? Did you call Mr. Cowler?
 15 A. Yes.
 16 Q. And do you recall when you called
 17 him?
 18 A. It was definitely in July. The
 19 first time when I called, I believe that he had a
 20 message machine. I left a message for him.
 21 The actual conversation, I don't remember whether
 22 I called him back again or he called me, that,
 23 I don't remember.
 24 Q. In the occasion when you finally
 25 reached Mr. Cowler, was that when you made an

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1 BEY DILEMANI
 2 positive of the date.
 3 Q. At the time that you met with
 4 Mr. Cowler, had you already moved from Arizona?
 5 A. Yes.
 6 Q. At the time that you had moved, had
 7 you sold your house in Arizona?
 8 A. It was on the market, it was not
 9 sold.
 10 Q. At the time that you met with
 11 Mr. Cowler, had you rented the house in --
 12 A. Chalfont.
 13 Q. -- in Chalfont?
 14 A. Yes.
 15 Q. When you went to Pittsburgh to
 16 interview with Mr. Cowler, was it a one-day trip
 17 for you?
 18 A. Yes.
 19 Q. Let me back up for a minute.
 20 Where did you meet with Mr. Cowler?
 21 A. At the restaurant.
 22 Q. At the Buca Restaurant in
 23 Pittsburgh?
 24 A. Yes.
 25 Q. What time of day did you meet with

83

1 BEY DILEMANI
 2 arrangement to meet him in person or was this
 3 just a telephone interview?
 4 A. A combination.
 5 Q. Maybe the better way to get at it,
 6 then, is to ask you, what do you remember of that
 7 phone conversation, that first phone conversation
 8 that you had with Mr. Cowler?
 9 A. He asked me if I have seen the vice
 10 president, meaning JT.
 11 I explained to him that he's on
 12 vacation. Your name and number was given to me
 13 by Lori Van Holmes to call you, and I believe he
 14 mentioned first, you can come here first to
 15 Pittsburgh, and then you can fly back to
 16 Minnesota to meet the president.
 17 Q. At the time that you're having this
 18 conversation with Mr. Cowler that you've just
 19 testified about, where are you living?
 20 A. I was in Arizona.
 21 Q. How long after the telephone
 22 conversation that you had with Mr. Cowler did you
 23 actually meet with him in person?
 24 A. I believe I met Mr. Cowler on
 25 July 22nd, sometime in the end of July. I'm not

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1 BEY DILEMANI
 2 him?
 3 A. I believe it was early afternoon.
 4 Q. How long did you meet with
 5 Mr. Cowler?
 6 A. To the best of my knowledge,
 7 anywhere between 30 to 40 minutes.
 8 Q. Was anyone else present for the
 9 interview?
 10 A. No.
 11 Q. Did either you or Mr. Cowler take
 12 notes?
 13 A. No.
 14 Q. Did you complete any paperwork while
 15 you were with Mr. Cowler or was it just a
 16 face-to-face meeting?
 17 A. Face-to-face.
 18 Q. At the conclusion of the interview,
 19 did Mr. Cowler tell you what the next step in
 20 your job application process was going to be?
 21 Did he say wait for me to call you, wait for
 22 somebody else to call you, anything like that?
 23 A. He mentioned that the training
 24 program is going to take place in Buffalo for two
 25 weeks, and then after that, someplace in

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1 BEY DILEMANI
 2 Pennsylvania to learn the opening of a
 3 restaurant.
 4 Q. During the interview with
 5 Mr. Cowler, did you learn when the Allentown,
 6 Pennsylvania restaurant was going to open?
 7 A. At that time, he mentioned
 8 approximately five to six months.
 9 Q. Was that the first time that you had
 10 learned that the restaurant would not be open for
 11 that period of time?
 12 A. No.
 13 Q. So you already knew that
 14 information?
 15 A. Yes.
 16 Q. During the interview itself, did you
 17 feel that you got along well with Mr. Cowler?
 18 A. Definitely.
 19 Q. Did you feel that Mr. Cowler was
 20 somebody that you could work for?
 21 A. Yes.
 22 Q. Did you understand that if you
 23 became the general manager of the Allentown
 24 restaurant, that Mr. Cowler would be your
 25 immediate supervisor?

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1 BEY DILEMANI
 2 get boring?
 3 A. Absolutely not.
 4 Q. After you met with Mr. Cowler in
 5 person, when was the next time that you spoke to
 6 somebody with Buca?
 7 A. A few days later, I did receive a
 8 phone call from Ms. Van Holmes.
 9 Q. What did she say in that phone call
 10 and what did you say?
 11 A. That was very brief, actually.
 12 How was your trip to Pennsylvania?
 13 I said, It was fine.
 14 In the same tone of voice, Well,
 15 Mr. Cowler decided on somebody else, I'm very
 16 sorry.
 17 Q. What did you say after she said
 18 something to the effect of Mr. Cowler --
 19 A. I was very, very shocked, and very
 20 surprised.
 21 Q. My question, though, was, what did
 22 you say after Ms. Van Holmes said something to
 23 the effect of, Mr. Cowler has decided on someone
 24 else, I'm very sorry?
 25 A. I probably -- to the best of my

87

1 BEY DILEMANI
 2 A. Yes.
 3 Q. Did Mr. Cowler ask you any questions
 4 about your experience at Spaghetti Western
 5 Restaurant?
 6 A. I don't recall Mr. Cowler asking me
 7 too many questions regarding how to operate a
 8 restaurant. I don't remember that.
 9 Q. What type of questions do you
 10 remember Mr. Cowler asking you, if any?
 11 A. Not too much.
 12 Q. Do you remember discussing with
 13 Mr. Cowler any other job opportunities at Buca,
 14 other than being the general manager of the
 15 Allentown restaurant?
 16 A. He actually asked me, A guy with
 17 your background, you might get bored running one
 18 restaurant, something of that shape. I'm not
 19 saying this is the exact words.
 20 And I mentioned to him, after a few
 21 years, you get promoted, which that is pretty
 22 much the standard in a lot of companies. And
 23 that was about it.
 24 Q. Did you feel that running a single
 25 restaurant for a period of several years might

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1 BEY DILEMANI
 2 knowledge, I said, After two and a half months
 3 interviewing back and forth, you're just telling
 4 me this now after I moved to Pennsylvania.
 5 And she just kept saying that she's
 6 sorry.
 7 Q. Did you raise your tone of voice
 8 during the conversation?
 9 A. I don't remember raising my voice.
 10 Especially when I talk to a lady, I usually don't
 11 do that.
 12 Q. Do you recall whether you used any
 13 curse words in your conversation?
 14 A. Absolutely not.
 15 Q. Approximately how long did this
 16 conversation last with Ms. Van Holmes?
 17 A. Anywhere between three to five
 18 minutes, maybe.
 19 Q. In this conversation that you were
 20 having with Ms. Van Holmes, did you complain to
 21 her about having to pay the cost of the airplane
 22 tickets?
 23 A. Yes. She mentioned I should take
 24 a -- for a one-day trip from here to go to
 25 Pittsburgh to go by car. And, actually, she

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1 BEY DILEMANI
 2 asked me, How come you didn't drive. Imagine
 3 that, 600 miles. And so I took the plane, and
 4 this is what it came to.
 5 Q. Did she tell you in that
 6 conversation that she would take care of the
 7 airplane tickets?
 8 A. She said, Send me the receipts and
 9 I'll see what I can do.
 10 Q. Did she subsequently send you
 11 reimbursement for your expenses for that trip to
 12 Pittsburgh?
 13 A. Yes.
 14 MR. GERHAN: Let's mark this as
 15 Exhibit 5.
 16 (Whereupon, Defendant's Exhibit No.
 17 5 was received and marked for Identification and
 18 is appended to the transcript.)
 19 Q. Mr. Dilemani, I'm showing you a
 20 document that's been marked as Deposition Exhibit
 21 5. Is this a copy of the letter that you sent to
 22 Ms. Van Holmes requesting reimbursement for your
 23 expenses on the trip to Pittsburgh?
 24 A. Yes.
 25 Q. At the top of Deposition Exhibit 5,

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1 BEY DILEMANI
 2 (Whereupon, Defendant's Exhibit No.
 3 6 was received and marked for Identification and
 4 is appended to the transcript.)
 5 Q. Mr. Dilemani, I'm showing you a
 6 document that's been marked as Deposition Exhibit
 7 6. This is a copy of a letter that you sent to
 8 Mr. Micatrotto; is that correct?
 9 A. Correct.
 10 Q. Did you send this letter before or
 11 after receiving the reimbursement for the
 12 Pittsburgh trip expenses, if you recall?
 13 A. That, I don't remember.
 14 Q. If you look at the next to last page
 15 and the last page of Deposition Exhibit 6, the
 16 last sentence before your signature -- or
 17 actually, I'm sorry, the next to last sentence
 18 before your signature says, "Enclosed you will
 19 find papers that I think will be of interest to
 20 you."
 21 Do you see that sentence?
 22 MR. GOLDBERG: May I point out to
 23 the witness the sentence?
 24 MR. GERHAN: Sure.
 25 A. Yes.

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1 BEY DILEMANI
 2 there's what I'll call a fax transmission.
 3 A. Yes.
 4 Q. An indication that has the word Jake
 5 Dilemani?
 6 A. That's my son.
 7 Q. Is it his fax machine that you used?
 8 A. No.
 9 Q. Do you know why it prints out that
 10 way?
 11 A. Actually, even if you look at the
 12 number on top of the fax machine, it's 914 area
 13 code. This number was in the machine. It was
 14 programmed in the machine when we were living in
 15 New York. He programmed the number in the
 16 machine under his own name, that's why. Finally,
 17 he changed it about a year ago to my name.
 18 Q. After the telephone conversation
 19 with Ms. Van Holmes where she told you the news
 20 about your application at Buca, did you ever have
 21 any other telephone conversations with anyone
 22 from Buca?
 23 A. No.
 24 MR. GERHAN: Let's mark this one as
 25 Exhibit 6.

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1 BEY DILEMANI
 2 Q. Do you remember what papers you
 3 enclosed with this letter?
 4 A. All the paperwork had to do with my
 5 moving expenses, yes, from Arizona to Chalfont.
 6 Q. So things like the bill from the
 7 moving company, would that have been one of the
 8 enclosures?
 9 A. Yes, the trucking company, the
 10 plane. I don't remember all of them, really.
 11 Q. But they all related to expenses
 12 that you had incurred in moving from Arizona to
 13 Pennsylvania?
 14 A. Correct.
 15 Q. At the time that you were going
 16 through the interview and application process at
 17 Buca, were you seeking employment with any other
 18 employer?
 19 A. I don't remember if it was the same
 20 time or before or after, that, I don't remember.
 21 Q. What other employer would you have
 22 been seeking employment with at or about that
 23 same time?
 24 A. During the time I was negotiating
 25 with Buca, practically nobody, because I was --

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1 BEY DILEMANI
 2 based on what I heard from Ms. Van Holmes and
 3 Mr. Cowler, in part, I was pretty much sure the
 4 job -- I have the job, and based on that, I did
 5 not bother to do anything else, and, therefore,
 6 that was my mistake.
 7 Q. How about before you first contacted
 8 Buca, but while you were still in Arizona, was
 9 there any other employer that you sought
 10 employment with?
 11 A. Where, in Arizona?
 12 Q. Yes.
 13 A. No.
 14 Q. Or anywhere, but while you were
 15 living in Arizona.
 16 A. I might have sent an application and
 17 my resume, based on what I've seen in the paper,
 18 but there was nothing really I did follow up on.
 19 Q. And if you assume for a minute that
 20 you did send your resume to somebody during that
 21 time that you were operating Spaghetti Western,
 22 nobody contacted you as a follow-up, other than
 23 the Buca stuff?
 24 A. Yes, probably. I mean, to the best
 25 of my knowledge, if I can remember everything,

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1 BEY DILEMANI
 2 answered.
 3 Q. You may answer it.
 4 MR. GOLDBERG: You may answer it.
 5 A. Probably, starting in April.
 6 MR. GERHAN: Let's mark this one as
 7 Deposition Exhibit 7.
 8 (Whereupon, Defendant's Exhibit No.
 9 7 was received and marked for Identification and
 10 is appended to the transcript.)
 11 Q. Mr. Dilemani, I'm showing you a copy
 12 of a document that's been marked as Defendant's
 13 Deposition Exhibit 7.
 14 Is this a copy of your current
 15 resume?
 16 A. Yes.
 17 Q. Is there a company other than
 18 Spaghetti Western Company that's your most recent
 19 place of employment?
 20 A. Yes.
 21 Q. And what is that?
 22 A. At the present time?
 23 Q. Yes.
 24 A. A company called 1900 North Broad,
 25 Inc.

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1 BEY DILEMANI
 2 they did send me some type of letter, you know,
 3 we have your information in the file or fill out
 4 an application, send it back, that sort of thing.
 5 Q. Do you remember what company it was?
 6 A. Not really, I don't.
 7 Q. Was it a company that was based in
 8 Arizona or was it based elsewhere?
 9 A. They were pretty much national.
 10 Q. So it was some sort of national
 11 restaurant company that you sent your resume to?
 12 A. Probably.
 13 Q. So I take it, then, that at some
 14 point before you sent your resume to Buca, you
 15 had already decided that Spaghetti Western was
 16 not going to be the final job for you, if you
 17 will, you were looking elsewhere?
 18 A. I was looking for a little more
 19 responsibility.
 20 Q. When do you recall making that
 21 decision?
 22 A. I'm sorry, what decision?
 23 Q. The decision that you wanted to look
 24 for a job with a little more responsibility.
 25 MR. GOLDBERG: Objection. Asked and

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1 BEY DILEMANI
 2 Q. What does 1900 North Broad, Inc. do?
 3 A. It is a gas station and food mart.
 4 Q. Who is the owner of 1900 North
 5 Broad, Inc.?
 6 A. Me.
 7 Q. Are there any other owners besides
 8 you?
 9 A. No.
 10 Q. How long have you been the owner of
 11 1900 North Broad, Inc.?
 12 A. Since May.
 13 Q. May of 2002?
 14 A. Correct.
 15 Q. What 1900 North Broad, Inc. does is
 16 operate a gas station and food mart?
 17 A. Yes.
 18 Q. Is the gas station and food mart
 19 that it operates located at 1900 North Broad?
 20 A. North Broad Street.
 21 Q. Does 1900 North Broad, Inc. do
 22 anything other than operate that gas station and
 23 food mart?
 24 A. No.
 25 Q. Do you perform any services for

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1 BEY DILEMANI
 2 expected it to be when you bought it?
 3 A. I really don't have any final answer
 4 to that.
 5 Q. Approximately, how many hours per
 6 week do you work at the gas station/food mart?
 7 A. Around 40.
 8 Q. How many other employees work there?
 9 A. I have quite a few.
 10 Q. How many?
 11 A. Four.
 12 Q. Are any of them family members?
 13 A. No.
 14 Q. I think you told me earlier that
 15 your wife works presently?
 16 A. Yes, yes.
 17 Q. Has she worked throughout the time
 18 that you've lived -- let me back up.
 19 Has your wife worked since you moved
 20 back to Pennsylvania in July or August of 2000?
 21 A. Most part of it.
 22 Q. And has she had the same job or
 23 different jobs?
 24 A. Different jobs.
 25 Q. What is she doing presently?

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1 BEY DILEMANI
 2 A. Okay. When you have a feeling that
 3 you have a job offer and the job is in the bag,
 4 and then everything changes and changes 360
 5 degrees against you, at one point, I'm blaming
 6 myself, I did not wait for the formal offer
 7 letter, I blame myself for that. And sitting
 8 here in front of you right now, I'm very sorry
 9 I did what I did, extremely sorry.
 10 And based on this, it would affect
 11 you mentally, it would affect you emotionally,
 12 you would lose your confidence and you sort of
 13 feel that you can't stand yourself anymore.
 14 Again, I blame myself for part of
 15 that, which I sort of took these two individuals,
 16 especially Ms. Van Holmes's conversation, I took
 17 it very serious, because I believe when you're
 18 applying for a job, it's serious. And based on
 19 all of this stuff and going through the
 20 aggravation, mentally, physically, financially,
 21 the family, the children, and putting everybody
 22 into that package, I can assure you, it was not a
 23 pleasant time when we were going through it at
 24 all, not for me, not for my wife and also not for
 25 my children; which, again, I'm going to repeat

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1 BEY DILEMANI
 2 A. She is an interior designer.
 3 Q. Is she employed by anyone or is she
 4 self-employed?
 5 A. Employed by someone right now.
 6 Q. And how long has she been employed
 7 by that business?
 8 A. The present job, to the best of my
 9 knowledge, seven months, six, seven months.
 10 Q. Did your wife work when you lived in
 11 Arizona?
 12 A. No.
 13 Q. Taking the entire calendar year
 14 2001, do you know how much money your wife made?
 15 A. Not really. I don't know offhand.
 16 Q. Do you know how much she made in
 17 calendar year 2002?
 18 A. No.
 19 Q. When I was asking you about the
 20 damages that you were seeking, in addition to
 21 lost pay, you told me that you were looking for,
 22 I think the words you used were compensation for
 23 being made uncomfortable.
 24 A. Yes.
 25 Q. What did you mean by that?

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1 BEY DILEMANI
 2 myself, I'm very sorry I did what I did.
 3 Q. When you say you're very sorry you
 4 did what you did, to what are you referring?
 5 A. I'm referring to moving without
 6 having an offer letter in my hand.
 7 Q. Is there a money figure that you
 8 believe would compensate you for the problems
 9 that you just described in your previous answer?
 10 A. I mean, that is something that is up
 11 to the law to make that decision, what's fair is
 12 fair.
 13 Q. Have you gone to see a psychiatrist
 14 or psychologist with respect to the issues that
 15 you were talking about?
 16 A. No.
 17 Q. Have you gone to see any kind of a
 18 counselor about those problems?
 19 A. No.
 20 Q. Have you gone to see a doctor about
 21 those problems?
 22 A. I have seen doctors, but did not
 23 mention the problems.
 24 Q. Do you attribute -- let me back up
 25 for a second.